

§ 1021.312

such transactions are conducted pursuant to a contractual or other arrangement with a casino covering the financial services in paragraphs (a)(8), (b)(7), and (b)(8) of this section;

(2) Cash out transactions to the extent the currency is won in a money play and is the same currency the customer wagered in the money play, or cash in transactions to the extent the currency is the same currency the customer previously wagered in a money play on the same table game without leaving the table;

(3) Bills inserted into electronic gaming devices in multiple transactions (unless a casino has knowledge pursuant to §1021.313 in which case this exemption would not apply); and

(4) Jackpots from slot machines or video lottery terminals.

§ 1021.312 Identification required.

Refer to §1010.312 of this chapter for identification requirements for reports of transaction in currency filed by casinos and card clubs.

§ 1021.313 Aggregation.

In the case of a casino, multiple currency transactions shall be treated as a single transaction if the casino has knowledge that they are by or on behalf of any person and result in either cash in or cash out totaling more than \$10,000 during any gaming day. For purposes of this section, a casino shall be deemed to have the knowledge described in the preceding sentence, if: Any sole proprietor, partner, officer, director, or employee of the casino, acting within the scope of his or her employment, has knowledge that such multiple currency transactions have occurred, including knowledge from examining the books, records, logs, information retained on magnetic disk, tape or other machine-readable media, or in any manual system, and similar documents and information, which the casino maintains pursuant to any law or regulation or within the ordinary course of its business, and which contain information that such multiple currency transactions have occurred.

31 CFR Ch. X (7-1-11 Edition)

§ 1021.314 Structured transactions.

Refer to §1010.314 of this chapter for rules regarding structured transactions for casinos.

§ 1021.315 Exemptions.

Refer to §1010.315 of this chapter for exemptions from the obligation to file reports of transactions in currency for casinos.

§ 1021.320 Reports by casinos of suspicious transactions.

(a) *General.* (1) Every casino shall file with FinCEN, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. A casino may also file with FinCEN, by using the form specified in paragraph (b)(1) of this section, or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section.

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through a casino, and involves or aggregates at least \$5,000 in funds or other assets, and the casino knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any Federal law or regulation or to avoid any transaction reporting requirement under Federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this chapter or of any other regulations promulgated under the Bank Secrecy Act;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts, including the

background and possible purpose of the transaction; or

(iv) Involves use of the casino to facilitate criminal activity.

(b) *Filing procedures*—(1) *What to file*. A suspicious transaction shall be reported by completing a Suspicious Activity Report by Casinos (“SARC”), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file*. The SARC shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SARC.

(3) *When to file*. A SARC shall be filed no later than 30 calendar days after the date of the initial detection by the casino of facts that may constitute a basis for filing a SARC under this section. If no suspect is identified on the date of such initial detection, a casino may delay filing a SARC for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations involving violations that require immediate attention, such as ongoing money laundering schemes, the casino shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SARC. Casinos wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call FinCEN’s Financial Institutions Hotline at 1-866-556-3974 in addition to filing timely a SARC if required by this section.

(c) *Exceptions*. A casino is not required to file a SARC for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(d) *Retention of records*. A casino shall maintain a copy of any SARC filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SARC. Supporting documentation shall be identified as such and maintained by the casino, and shall be deemed to have been filed with the SARC. A casino shall make all supporting documentation available to FinCEN or any Federal, State, or local law enforcement agency, or any Fed-

eral regulatory authority that examines the casino for compliance with the Bank Secrecy Act, or any State regulatory authority administering a State law that requires the casino to comply with the Bank Secrecy Act or otherwise authorizes the State authority to ensure that the casino complies with the Bank Secrecy Act, or any tribal regulatory authority administering a tribal law that requires the casino to comply with the Bank Secrecy Act or otherwise authorizes the tribal regulatory authority to ensure that the casino complies with the Bank Secrecy Act, upon request.

(e) *Confidentiality of SARs*. A SAR, and any information that would reveal the existence of a SAR, are confidential and shall not be disclosed except as authorized in this paragraph (e). For purposes of this paragraph (e) only, a SAR shall include any suspicious activity report filed with FinCEN pursuant to any regulation in this chapter.

(1) *Prohibition on disclosures by casinos*—(i) *General rule*. No casino, and no director, officer, employee, or agent of any casino, shall disclose a SAR or any information that would reveal the existence of a SAR. Any casino, and any director, officer, employee, or agent of any casino that is subpoenaed or otherwise requested to disclose a SAR or any information that would reveal the existence of a SAR, shall decline to produce the SAR or such information, citing this section and 31 U.S.C. 5318(g)(2)(A)(i), and shall notify FinCEN of any such request and the response thereto.

(ii) *Rules of Construction*. Provided that no person involved in any reported suspicious transaction is notified that the transaction has been reported, this paragraph (e)(1) shall not be construed as prohibiting:

(A) The disclosure by a casino, or any director, officer, employee, or agent of a casino, of:

(1) A SAR, or any information that would reveal the existence of a SAR, to FinCEN or any Federal, State, or local law enforcement agency, or any Federal regulatory authority that examines the casino for compliance with the Bank Secrecy Act, or any State regulatory authority administering a State law that requires the casino to comply

§ 1021.330

with the Bank Secrecy Act or otherwise authorizes the State authority to ensure that the casino complies with the Bank Secrecy Act, or any tribal regulatory authority administering a tribal law that requires the casino to comply with the Bank Secrecy Act or otherwise authorizes the tribal regulatory authority to ensure that casino complies with the Bank Secrecy Act; or

(2) The underlying facts, transactions, and documents upon which a SAR is based, including but not limited to, disclosures to another financial institution, or any director, officer, employee, or agent of a financial institution, for the preparation of a joint SAR.

(B) The sharing by a casino, or any director, officer, employee, or agent of the casino, of a SAR, or any information that would reveal the existence of a SAR, within the casino's corporate organizational structure for purposes consistent with Title II of the Bank Secrecy Act as determined by regulation or in guidance.

(2) *Prohibition on disclosures by government authorities.* A Federal, State, local, territorial, or Tribal government authority, or any director, officer, employee, or agent of any of the foregoing, shall not disclose a SAR, or any information that would reveal the existence of a SAR, except as necessary to fulfill official duties consistent with Title II of the Bank Secrecy Act (BSA). For purposes of this section, "official duties" shall not include the disclosure of a SAR, or any information that would reveal the existence of a SAR, in response to a request for disclosure of non-public information or a request for use in a private legal proceeding, including a request pursuant to 31 CFR 1.11.

(f) *Limitation on liability.* A casino, and any director, officer, employee, or agent of any casino, that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this section or any other authority, including a disclosure made jointly with another institution, shall be protected from liability to any person for any such disclosure, or for failure to provide notice of such disclosure

31 CFR Ch. X (7-1-11 Edition)

to any person identified in the disclosure, or both, to the full extent provided by 31 U.S.C. 5318(g)(3).

(g) *Compliance.* Casinos shall be examined by FinCEN or its delegates for compliance with this section. Failure to satisfy the requirements of this section may be a violation of the Bank Secrecy Act and of this chapter.

(h) *Applicability date.* This section applies to transactions occurring after March 25, 2003.

[75 FR 65812, Oct. 26, 2010, as amended at 76 FR 10517, Feb. 25, 2011]

§ 1021.330 Exceptions to the reporting requirements of 31 U.S.C. 5331.

(a) *Receipt of currency by certain casinos having gross annual gaming revenue in excess of \$1,000,000—In general.* If a casino receives currency in excess of \$10,000 and is required to report the receipt of such currency directly to the Treasury Department under § 1010.306, § 1021.311, or § 1021.313 and is subject to the recordkeeping requirements of § 1021.410, then the casino is not required to make a report with respect to the receipt of such currency under 31 U.S.C. 5331 and this section.

(b) *Casinos exempt under § 1010.970(c).* Pursuant to § 1010.970, the Secretary may exempt from the reporting and recordkeeping requirements under § 1010.306, § 1021.311, § 1021.313 or § 1021.410 casinos in any state whose regulatory system substantially meets the reporting and recordkeeping requirements of this chapter. Such casinos shall not be required to report receipt of currency under 31 U.S.C. 5331 and this section.

(c) *Reporting of currency received in a non-gaming business.* Non-gaming businesses (such as shops, restaurants, entertainment, and hotels) at casino hotels and resorts are separate trades or businesses in which the receipt of currency in excess of \$10,000 is reportable under section 5331 and these regulations. Thus, a casino exempt under paragraph (a) or (b) of this section must report with respect to currency in excess of \$10,000 received in its non-gaming businesses.

(d) *Example.* The following example illustrates the application of the rules in paragraphs (a) and (c) of this section: